

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Homer T. McCrary, et al.,

NO. C 06-04174 JW

Plaintiff,

SCHEDULING ORDER

v.

Carlos M. Gutierrez, et al.,

Defendants.

Upon filing, this case was scheduled for a case management conference on October 23, 2006. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, **the case management conference is vacated** and the parties are ordered to comply with the following schedule:

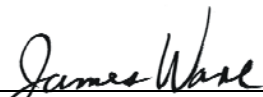
1. Defendants shall complete production of the administrative record for judicial review and serve a copy of such record upon Plaintiff and the Court no later than **November 22, 2006.**
2. Plaintiff shall have 60 days from the filing of the record in which to review that record and to serve discovery requests or objections, if any. Defendants reserve the right to oppose any request for discovery or to supplement the record.
3. In the event that Plaintiff does not file objections to the administrative record or pursue discovery, Plaintiff shall file his summary judgment 105 days from the filing

of the record. Defendants shall file a combined opposition/cross motion for summary judgment 45 days after receipt of Plaintiff's brief; Plaintiff shall file a combined opposition/reply 30 days thereafter, and Defendants shall file a reply 14 days thereafter.

4. In the event that Plaintiff pursues discovery or files an objection to the record, Plaintiff shall file his motion for summary judgment within 45 days after the completion of discovery or supplementation of the record, whichever is later, which contemplates a ruling by this Court on any motions for a protective order that may be sought by defendants. Defendants shall file a combined opposition/cross motion for summary judgment 45 days after receipt of Plaintiff's motion for summary judgment. Plaintiff shall file a combined opposition/reply 30 days thereafter, and Defendants shall file their reply 14 days thereafter.

None of the dates set in this order may be changed without an order of the court made after a motion is duly filed and made pursuant to the local rules of this court.

Dated: October 17, 2006



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Andrea M. Miller Amiller@NMLawFirm.com

James L. Buchal counsel@buchal.com

3 Robert Pendleton Williams robert.p.williams@usdoj.gov

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5 **Dated: October 17, 2006**

Richard W. Wieking, Clerk

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7 **By: /s/ JW Chambers**

Elizabeth Garcia
Courtroom Deputy